

**BEFORE THE  
FEDERAL ELECTION COMMISSION**

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Brad Woodhouse  
American Democracy Legal Fund  
455 Massachusetts Avenue, NW  
Washington, DC 20001

**MUR # 6988**

Complainant,

v.

Conservative Solutions Project, Inc., and Robert Watkins, Treasurer  
610 S. Boulevard  
Tampa, FL 33606

Pat Shortridge, President/Director  
Conservative Solutions Project, Inc.  
610 S. Boulevard  
Tampa, FL 33606

J. Warren Tompkins, Director  
Conservative Solutions Project, Inc.  
610 S. Boulevard  
Tampa, FL 33606

Joel McElhannon, Director  
Conservative Solutions Project, Inc.  
610 S. Boulevard  
Tampa, FL 33606

Respondents.

**COMPLAINT**

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Conservative Solutions Project, Inc., ("Conservative Solutions"), Robert Watkins, in his official capacity as treasurer, Pat Shortridge, in his official capacity as President/Director, and J. Warren Tompkins and Joel McElhannon, in their official capacities as Directors (collectively, "Respondents") for violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election

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COUNSEL

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Commission (the "Commission") regulations, as described below. Publicly available reports indicate that Conservative Solutions violated the Act and Commission regulations by failing to file the required independent expenditure reports with the Commission after making independent expenditures in support of Senator Marco Rubio's presidential campaign.

#### A. FACTS

Conservative Solutions is a 501(c)(4) that is closely linked to Senator Rubio and his associates.<sup>1</sup> While the organization's stated goal is to "work[] with bold, persuasive leaders to bring Conservative Solutions to the problems that currently plague our nation,"<sup>2</sup> the group's website focuses on only one such "leader": Senator Rubio. As recently as last month, the senator's picture was prominently featured on the group's website, and a video of Senator Rubio is the first visual presented to visitors to the site.<sup>3</sup> Additionally, Conservative Solutions' board is comprised of individuals with close ties to the senator. Former adviser to Senator Rubio Pat Shortridge runs the organization as President/Director while J. Warren Tompkins, a former business partner of Senator Rubio's campaign manager, is a Director.<sup>4</sup>

According to publicly available media reports, Senator Rubio is "benefiting in unprecedented ways" from Conservative Solutions.<sup>5</sup> "Every pro-Rubio television commercial so far in the early primary states of Iowa, New Hampshire and South Carolina has been paid for not by his campaign or even by a super PAC that identifies its donors" but by Conservative

<sup>1</sup> IRS, Conservative Solutions Project 990-EZ, [http://990s.foundationcenter.org/990\\_pdf\\_archive/465/465565650/465565650\\_201405\\_990EO.pdf?\\_ga=1.129685260.1057242479.1444660774](http://990s.foundationcenter.org/990_pdf_archive/465/465565650/465565650_201405_990EO.pdf?_ga=1.129685260.1057242479.1444660774).

<sup>2</sup> *Our Agenda*, Conservative Solutions Project, <http://www.conservativesolutionsproject.com/agenda/> (last visited Nov. 4, 2015).

<sup>3</sup> Jonathan Martin & Nicholas Confessore, *Nonprofits Masks Source of Ads Backing Rubio*, N.Y. Times (Oct. 11, 2015), <http://www.nytimes.com/2015/10/12/us/politics/nonprofit-masks-dark-money-ads-backing-marco-rubio.html>.

<sup>4</sup> *Id.*; Conservative Solutions Project 990-EZ; *supra* note 1, at 2.

<sup>5</sup> Julie Bykowicz, *Rubio's Presidential Bid Boosted by Secret-Money Commercials*, Associated Press (Oct. 8, 2015, 12:11 PM), <http://bigstory.ap.org/article/5926406673b047a7a34f1177e01014da/anonymous-donors-send-millions-pro-rubio-group>.

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Solutions.<sup>6</sup> Conservative Solutions has reportedly spent about \$680,000 in Iowa, \$835,000 in New Hampshire, and almost \$600,000 in South Carolina to support Senator Rubio through television advertisements.<sup>7</sup> Conservative Solutions is “also sending Rubio-boosting mail to voters in those same states.”<sup>8</sup> One of Conservative Solutions’ television advertisements entitled *American Dream* opens with a shot of Senator Rubio speaking at the Iowa State Fair about protecting the American Dream.<sup>9</sup> The footage of Senator Rubio uses a video of Senator Rubio stating that what we “are called upon to do now is to ensure that the American dream does not just survive, but that it reaches more people and changes more lives than ever before.”<sup>10</sup> The advertisement continues with the narrator saying, “New ideas for a new age” followed by a statement of Senator Rubio’s policy priorities: “Throw out the tax code; overhaul higher education; repeal and replace Obamacare.”<sup>11</sup> The advertisement then features Senator Rubio, again, saying “You and I were left by our parents and grandparents the greatest nation in the history of the world. It is our obligation to keep it that way.”<sup>12</sup> Conservative Solutions spent \$56,500 buying advertising space to run this advertisement in Des Moines, Iowa from October 5 through October 11, 2015.<sup>13</sup>

Conservative Solutions aired another television advertisement, *Greatness*, featuring Senator Rubio speaking at the Conservative Political Action Conference (“CPAC”) about

<sup>6</sup> *Id.*

<sup>7</sup> Brett LoGiurato, *The Shadowy Nonprofit Backing Marco Rubio Has Spent a Surprising Amount of Money*, Bus. Insider (Oct. 12, 2015, 11:59 A.M.), <http://www.businessinsider.com/marco-rubio-nonprofit-spending-2015-10>.

<sup>8</sup> Bykowicz, *supra* note 5.

<sup>9</sup> Conservative Solutions Project, *American Dream* (Oct. 5, 2015), [https://www.youtube.com/watch?v=F\\_yciQ06HNk](https://www.youtube.com/watch?v=F_yciQ06HNk).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *American Dream*, Ad Buy Detail Report, [https://stations.fcc.gov/collect/files/33710/Political%20File/2015/Non-Candidate%20Issue%20Ads/Conservative%20Solutions%20Project/Conservative%20Solutions%20Project%2010-5%20-%2010-11-15/Conservative%20Solutions%20Project%2010.5-10.11.15%20offer%20\(14437079451949\).pdf](https://stations.fcc.gov/collect/files/33710/Political%20File/2015/Non-Candidate%20Issue%20Ads/Conservative%20Solutions%20Project/Conservative%20Solutions%20Project%2010-5%20-%2010-11-15/Conservative%20Solutions%20Project%2010.5-10.11.15%20offer%20(14437079451949).pdf)

America's greatness.<sup>14</sup> In that advertisement, Senator Rubio is seen saying that "outdated leaders who refuse to let go of the past" are standing in the way of America's continued greatness into the 21st Century.<sup>15</sup> Conservative Solutions spent \$59,250 buying advertising space in Des Moines, Iowa for *Greatness* to air between September 28 and October 4, 2015.<sup>16</sup>

## B. LEGAL DISCUSSION

Under the Act, every person (other than a political committee) must file a report with the Commission (1) at the end of the first reporting period in which independent expenditures with respect to a given election aggregate to more than \$250 in a calendar year and (2) in any succeeding period during the same calendar year in which additional independent expenditures of any amount are made.<sup>17</sup> When a person's independent expenditures during a calendar year are \$10,000 or more in the aggregate with respect to a given election at any time up to and including the 20th day before an election, the person must file a report with the Commission by the end of the second calendar day after the independent expenditure communication is publicly distributed or otherwise publicly disseminated ("48-hour reports").<sup>18</sup> The person must then file additional 48-hour reports for subsequent independent expenditures related to the same election that aggregate to \$10,000 or more through 20 days before the election.<sup>19</sup>

An "independent expenditure" is "an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a

<sup>14</sup> Conservative Solutions Project, *Greatness* (Sept. 28, 2015), [https://www.youtube.com/watch?v=gm\\_xOtDmzc0](https://www.youtube.com/watch?v=gm_xOtDmzc0).

<sup>15</sup> *Id.*

<sup>16</sup> *Greatness*, Ad Buy Detail Report, [https://stations.fcc.gov/collect/files/33710/Political%20File/2015/Non-Candidate%20Issue%20Ads/Conservative%20Solutions%20Project/Conservative%20Solutions%20Project%209-28%20-%2010-04-15/Conservative%20Solutions%20Project%209.28-10.04.15%20offer%20\(14425196974660\).pdf](https://stations.fcc.gov/collect/files/33710/Political%20File/2015/Non-Candidate%20Issue%20Ads/Conservative%20Solutions%20Project/Conservative%20Solutions%20Project%209-28%20-%2010-04-15/Conservative%20Solutions%20Project%209.28-10.04.15%20offer%20(14425196974660).pdf).

<sup>17</sup> 11 C.F.R. § 109.10(b); 52 U.S.C. § 30104(c)(1).

<sup>18</sup> 11 C.F.R. § 109.10(c).

<sup>19</sup> *Id.*

candidate's authorized committee, or their agents."<sup>20</sup> "Clearly identified" means "that candidate's name, . . . photograph . . . appears, or the identity of the candidate is otherwise apparent through an unambiguous reference."<sup>21</sup> "Expressly advocating" means "any communication that . . . [w]hen taken as a whole and with limited reference to external events, such as proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates because—

1. The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
2. Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.”<sup>22</sup>

**A communication meets the definition for express advocacy if no “reasonable alternative reading” can be suggested.<sup>23</sup>**

Conservative Solutions paid for television advertisements that expressly advocated for the election of Senator Rubio.”<sup>24</sup> Both *American Dream* and *Greatness* feature full shots and audio of Senator Rubio speaking; no other candidates appear in the advertisements. Thus, Senator Rubio is the clearly identified candidate in the advertisements. Further, in *American Dream*, Senator Rubio discusses the survival and reach of the American Dream followed by the narrator stating “New ideas for a new age.”<sup>25</sup> The advertisement concludes with a list of Senator Rubio’s policy priorities: “Throw out the tax code; overhaul higher education; repeal and replace Obamacare.”<sup>26</sup> The advertisement is clearly meant to boost Senator Rubio’s presidential

<sup>20</sup> 11 C.F.R. § 100.16(a); *see also* 52 U.S.C. § 30101(17).

<sup>21</sup> 11 C.F.R. § 100.17; *see also* 52 U.S.C. § 30101(18).

<sup>22</sup> 11 C.F.R. § 100.22.

<sup>23</sup> See *FEC v. Furgatch*, 807 F.2d 857, 864 (9th Cir. 1987).

<sup>24</sup> *Supra* note 9; *supra* note 14.

<sup>25</sup> *Supra* note 9.

26 *Id.*

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campaign; indeed, every advertisement that Conservative Solutions has run has been supportive of Senator Rubio.<sup>27</sup> Taken together, the advertisement's content does not allow for a "reasonable alternative reading"; it is unquestionable that *American Dream* is supposed to evoke the idea that Senator Rubio is the new, young leader that should be elected President in order to move the country to greater heights. Additionally, there are no requests that viewers contact other legislators and ask them to support Senator Rubio's proposals; rather Senator Rubio and the content of his policies are the sole focus of the advertisement. Because *American Dream* focuses on Senator Rubio's policy positions, and features him saying it is our job to keep America great, the advertisement is unmistakable, unambiguous, and suggestive of only one meaning: elect Senator Rubio for president. For those same reasons, reasonable minds could not differ that *American Dream* encourages the election of Senator Rubio.

*Greatness* also presents no "reasonable alternative reading" of the advertisement. Senator Rubio is the only person whose is featured in the advertisement. Additionally, his speech on America's greatness is carried over numerous patriotic shots, including a waving American flag and soldiers raising the flag at Iwo Jima.<sup>28</sup> The advertisement also contains a shot of the senator expressly calling out "outdated leaders," which suggests that he is not an outdated leader, and thus better equipped to lead the country.<sup>29</sup> This content indicates that there is only one reading of the advertisement: the election of Senator Rubio for president. Again, there is no request that viewers do anything to support Senator Rubio other than voting for him. The purpose of the advertisement is unmistakable, unambiguous, and suggestive of only that meaning. Certainly, reasonable minds could not differ that this advertisement, like *American Dream*, encourages the election of Senator Rubio as president.

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<sup>27</sup> Bykowicz, *supra* note 5.

<sup>28</sup> *Supra* note 14

<sup>29</sup> *Id.*

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Because Conservative Solutions' television advertisements expressly advocate for the election of Senator Rubio, they are independent expenditures. Senator Rubio has said that he has nothing to do with Conservative Solutions,<sup>30</sup> which, if true, indicates that Conservative Solutions' advertisements were "not made in cooperation, consultation, or concert with, or at the request or suggestion of" Senator Rubio or his campaign.<sup>31</sup> As such, Conservative Solutions should have been filing independent-expenditure reports with the Commission. Conservative Solutions spent \$56,500 buying advertising space to run *American Dream* in Des Moines, Iowa from October 5 through October 11, 2015<sup>32</sup> and \$59,250 buying advertising space in Des Moines, Iowa for *Greatness* to air between September 28 and October 4, 2015.<sup>33</sup> These figures are well in excess of the \$10,000 48-hour reporting threshold. Thus, Conservative Solutions was required to file 48-hour reports with the Commission with respect to these two advertisements. Further, Conservative Solutions is required to file a report with the Commission at the end of the reporting period because the expenditures are well in excess of the reporting threshold of \$250. A search of the Commission's Independent Expenditure database reveals that Conservative Solutions has not been reporting the money it has spent on these advertisements. While the similarly named Conservative Solutions PAC has filed independent expenditure reports, that group's spokesperson is on the record as stating that the PAC and the nonprofit are "very separate and distinct groups."<sup>34</sup>

Lastly, the Commission should investigate whether the mailers that Conservative Solutions has sent to voters in Iowa, New Hampshire, and South Carolina are independent

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<sup>30</sup> Bykowicz, *supra* note 5.

<sup>31</sup> 11 C.F.R. § 100.16(a).

<sup>32</sup> *American Dream*, Ad Buy Detail Report, *supra* note 13.

<sup>33</sup> *Greatness*, Ad Buy Detail Report, *supra* note 16.

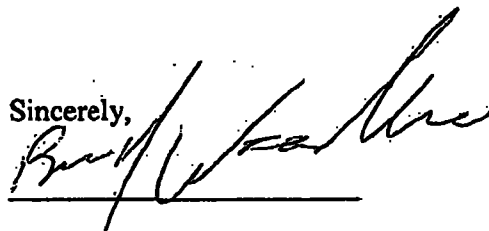
<sup>34</sup> Bykowicz, *supra* note 5.

expenditures that have been reported to the Commission.<sup>35</sup> Conservative Solutions' failure to report its pro-Rubio independent expenditures is a violation of the Act and Commission regulations.

**C. REQUESTED ACTION**

As we have shown, Conservative Solutions has violated the Act and Commission regulations by failing to report independent expenditures that it has made on behalf of Senator Rubio's presidential campaign. We respectfully ask that the Commission investigate this violation, and that Conservative Solutions be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,



SUBSCRIBED AND SWORN to before me this 23 day of November, 2015,



Notary Public

My Commission Expires:

10/31/2020



<sup>35</sup> *Id.*